IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3350 of 2001

For Approval and Signature:

HON'BLE MISS JUSTICE R.M. DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KIRIT N VAJANI

Versus

BHAVNAGAR MUNICIPAL CORPORATION & Ors.

Appearance:

1. Special Civil Application No. 3350 of 2001

MS SONAL D VYAS for Petitioner

MR JAYESH BAROT for HS MUNSHAW for Respondent No. 1

MR JR NANAVATI with AR THACKER for Respondent No. 2

RULE SERVED for Respondent No. 3-6

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 14/09/2004

ORAL JUDGEMENT

Heard the learned advocates.

The petitioner in the present petition is a Typist employed by the Bhavnagar Municipal Corporation [hereinafter referred to as, "the Corporation"], the respondent herein. The petitioner claims promotion to the post of Sub-Inspector and seeks direction to the State Government to frame the rules and regulations for recruitment, promotion and service conditions of the employees working in various cadres in the Corporation and to formulate the service rules for Typists in the Corporation.

Learned advocate Ms. Vyas has submitted that the Corporation and the State Government have failed to frame service regulations. In absence of specific service regulations, the appointments in various cadres in the Corporation are being made according to the convenience of the Officers/Councillors. Thus, the inaction of the Corporation in framing the service regulations is contrary to the rule of equality enshrined under Article 14 of the Constitution of India. Ms. Vyas has also submitted that the petitioner was promoted as House Tax Sub-Inspector by Order dated 19th November, 1997. However, he was reverted to the post of Typist by Order dated 15th July, 1998. She has submitted that there are instances where the Typists have been promoted to the higher cadres in the Corporation. The petitioner shall also be considered for promotion as House Tax Sub-Inspector.

Learned advocate Mr. Nanavati has submitted that the Corporation has framed service rules and has forwarded the same to the State Government for its approval. The said service rules are pending before the State Government for its approval. In absence of service rules duly approved by the State Government, the promotions and appointments in the Corporation are made by the Standing Committee of the Corporation in consonance with the provisions contained in the Act. He has submitted that the promotion to the post of Sub-Inspector can be made by from amongst the Senior Clerks. The petitioner not being a senior clerk, he is not entitled to such promotion. He has submitted that the petitioner's claim for promotion in other divisions of the Corporation is also not sustainable. The Typists have no administrative experience and cannot be promoted to administrative cadres. However, in case of the petitioner, he was given temporary promotion in the year 1997 in view of the administrative exigency. The same

being a temporary promotion, he was reverted by Order dated 15th July, 1998.

Admittedly, the petitioner being a Typist has no right to promotion to the administrative cadres in the Corporation, the petitioner's claim for such promotion is, therefore, untenable.

In above view of the matter, the petition is dismissed. Rule is discharged. The parties shall bear their own cost.

{Miss R.M Doshit, J.}

Prakash*